



W.P.No.4358 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.4358 of 2017

M.Elangovan

... Petitioner

Vs.

1. The Teachers Recruitment Board
rep by its Chairman,
Chennai-6.

2. The Director of Collegiate Education,
Chennai-6.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd respondent in his proceedings Na.Ka. No.37348/ D5/ 2016 dated 2.01.2017 and quash the same and direct the 1st respondent to assign the ranking in the cadre of Assistant Professor in the selection for back log vacancies for 2008 - 2009 so as to enable the 2nd Respondent to fix seniority.



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For Petitioner : Mr.B.Balavijayan
for M/s.C.S. Associates

For Respondents : Mr.C.Kathiravan,
Special Government Advocate (TRB)
for R1

Mr.L.S.M.Hasan Fizal,
Additional Government Pleader for R2

ORDER

This writ petition has been filed to quash the order passed by the 2nd respondent dated 02.01.2017 and to direct the 1st respondent to assign the ranking in the cadre of Assistant Professor in the selection for back log vacancies for 2008 - 2009 so as to enable the 2nd respondent to fix seniority.

2.The learned counsel appearing for the petitioner would submit that the petitioner acquired M.Sc., (Chemistry) and M.Phil., (Industrial Chemistry). He completed his Ph.D.. (Industrial Chemistry). In 2008, the 1st respondent called for application for special recruitment of Lecturers in Tamil Nadu Collegiate Educational Service for SC/ST in respect of shortfall vacancies. The petitioner applied for Assistant Professor (Chemistry) Post



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under SC category. On 04-06-2008, he was called for certificate verification and on 19-08-2008, Interview was conducted, but the petitioner was not selected since he got M.Phil., in Industrial Chemistry. Aggrieved over the same, the petitioner filed W.P.No.160/2009 and during the pendency of the writ petition, the 1st respondent called for application for Lecturer post in Chemistry for regular vacancies and he was called for Certificate Verification. This time also they rejected the claim of the petitioner stating that he did not possess M.Phil. / Ph.D in Chemistry, whereas the petitioner possessed only in Industrial Chemistry. Once again the petitioner filed W.P.No.10961/2009 and this Court allowed the writ petitions on 08.04.2010 and as per the orders of this Court, the petitioner was appointed as Assistant Professor in Chemistry in G.O.Ms.No.97, Higher Education Department. dated 13.06.2012. Thereafter, the petitioner came to know that the special recruitment for back log vacancies in 2008 – 2009, the petitioner's below ranked persons got selected and appointed. Therefore, petitioner should have been selected and given appointment from the date on which his juniors appointed who were lower in ranking, by securing lesser marks than the



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petitioner and the petitioner should be placed above his juniors. Therefore, the petitioner sent a representation to the respondent on 17.08.2015 and the same was rejected by the 2nd respondent on 02.01.2017. Hence, this Writ Petition.

3.The learned Special Government Pleader appearing for the 1st respondent would submit that the 1st respondent / Board issued Notification No.04/2008-2009 for the recruitment for the year 2008 for special recruitment for SC/ST. The petitioner applied for the post of Assistant Professor (Chemistry). Since the petitioner pursued M.Phil., degree in Industrial Chemistry which is not the relevant subject, he was not considered for selection. Aggrieved over the same, the petitioner filed W.P.No.160 of 2009 and the same was disposed of by this Court on 08.04.2010 directing the respondents to consider the case of the petitioner by calling him for an interview and consider him for an appointment, if he is otherwise found fit. Accordingly, the Board issued provisional selection orders and the petitioner joined duty on 29.06.2012. Further, the contention of the petitioner in his



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representation dated 17.08.2015 is that he applied for recruitment to the post of Assistant Professor in Chemistry for the year 2008-2009 (Special Recruitment for SC/ST). The Board finalized the selection and the successful candidates were provisionally selected on 13.10.2008 and therefore, he should also be considered for selection on par with those candidates. Thereafter, the respondents did not pass any order on the representation of the petitioner. Hence, the petitioner filed W.P. No.23752 of 2016 and the same was ordered by this Court on 12.07.2016. Thereafter, the 1st respondent rejected the representation of the petitioner dated 02.01.2017. Further, the 1st respondent did not consider the petitioner for selection due to the reason that the M.Phil., Degree (Industrial Chemistry) acquired by the petitioner is not the equivalent Degree to the post of Assistant Professor (Chemistry) during 2008 - 2009 recruitment. However, the 1st respondent in compliance with the orders of this Court has provisionally selected the petitioner. He would submit that the petitioner cannot claim for payment without rendering service and also the petitioner is not entitled for selection in retrospectively.



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4.Heard the learned counsel appearing on either side and perused the papers.

5.On a perusal of the records, it is seen that the 1st respondent / Board issued a Notification for the post of Assistant Professor under special recruitment for SC/ST. The petitioner applied for the post of Assistant Professor (Chemistry) the 1st respondent did not consider the petitioner for selection due to the reason that the M.Phil., Degree (Industrial Chemistry) acquired by the petitioner is not the equivalent Degree to the post of Assistant Professor (Chemistry). Thereafter, the petitioner filed W.P.No.160 of 2009 and during the pendency of the Writ Petition, the 1st respondent called for applications for the post of Assistant Professor (Chemistry) for regular vacancies and the respondent did not consider. Thereafter, the petitioner filed W.P.No.10961 of 2009 and the same was allowed based on the orders of this Court, the petitioner was appointed as Assistant Professor on 13.06.2012. Further, on the representation made by the petitioner, he is eligible for the selection retrospectively from 13.10.2008 and also claiming



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pay and the seniority but the same was rejected. Further, in an identical issue, the Hon'ble High Court of Madurai Bench in **W.P.(MD).No. 21234 of 2015** dated 30.11.2015 in the case of **K.Raveendra Ratinam Vs. Teachers Recruitment Board** has held as follows:

“3.While so, the petitioner made a request dated 06.02.2015 to the Director of Collegiate Education to pay him salary from 07.07.2009 onwards, while he was appointed in 2014 i.e., he has claimed arrears of salary from 07.07.2009 until he was appointed in 2014.

4.In my view, the petitioner cannot seek for payment of salary without rendering service. Hence, I am not inclined to issue a direction to sanction salary as sought for in this Writ Petition.”

6.In the present case, the petitioner was appointed as Assistant Professor on 29.06.2012 and he is claiming his selection retrospectively with all monetary benefits with effect from 13.10.2008. Further, he has obtained



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19 marks and his junior who was lower in ranking has secured 14 marks and appointed in the Special Recruitment for SC/ST in 2008 – 2009. Therefore, the petitioner is eligible for appointment of the said post from 13.10.2008 and his seniority can be fixed from that date. Hence, the petitioner is eligible for the cadre of Assistant Professor 2008 – 2009 and his appropriate ranking has to be fixed by the Authority for the promotional aspects and the pensionary benefits only, within a period of four weeks from the date of receipt of a copy of this order. In my view, the petitioner cannot seek for payment of salary without rendering any service. Accordingly, this Writ Petition is disposed of. No costs.

16.11.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
mps

To

1. The Chairman,
Teachers Recruitment Board,
Chennai-6.
2. The Director of Collegiate Education,
Chennai-6.

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V.BHAVANI SUBBAROYAN, J.

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